



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

February 28, 2019

Refer to NMFS No: WCR-2019-11449

Ned Gruenhagen, Ph.D.  
U.S. Department of Interior  
Bureau of Reclamation  
1243 N Street  
Fresno, California 93721-1813

Re: Endangered Species Act Section 7(a)(2) concurrence letter for the Robles Diversion Dam Critical Drought Protection Measures to Modify Operations and Fish Flows

Dear Dr. Gruenhagen:

On January 29, 2019, NOAA's National Marine Fisheries Service (NMFS) received your request for a written concurrence that Bureau of Reclamation's (Reclamation) proposed Robles Fish Passage Facility (Facility) Critical Drought Protection Measures (CDPM) are not likely to adversely affect endangered steelhead (*Oncorhynchus mykiss*) or its designated critical habitat under the Endangered Species Act (ESA). This response to your request was prepared by NMFS pursuant to section 7(a)(2) of the ESA, implementing regulations at 50 CFR 402, and agency guidance for preparation of letters of concurrence.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Public Consultation Tracking System (<https://pcts.nmfs.noaa.gov/pcts-web/homepage.pcts>). A complete record of this consultation is on file at NMFS' Southern California Coastal Office in Long Beach, California.

### **Action Area**

The action area involves the Facility and the mainstem Ventura River downstream of the Facility to the confluence with the Pacific Ocean, as depicted in Figure 1 of NMFS' March 31, 2003 Robles Biological Opinion (NMFS 2003<sup>1</sup>).

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<sup>1</sup> On March 31, 2003, NMFS concluded a formal consultation with the Bureau regarding the proposed construction and operation of the Robles Diversion and Fish Passage Facility. Among other elements considered in the biological opinion, the proposed action included a general framework of critical drought-protection measures.



## **Proposed Action**

Under the proposed action, Reclamation would authorize the owner of the Facility, Casitas Municipal Water District (Casitas), to modify steelhead passage augmentation-flow releases from the Facility, pursuant to Reclamation's January 29, 2019, *Report on Investigations of Critical Drought Protection Measures and Recommended Modified Fish Flow Operations to Conserve Lake Casitas Water Storage* (Report). The proposed CDPM operation of the Facility is a combination of two actions: (1) releasing 234-acre feet (AF) of water stored in Lake Matilija upstream for diversion into the Robles-Casitas canal at the Facility (alternative M9), and (2) if necessary, reducing the magnitude of the Facility's 10-day steelhead-passage augmentation-flow release described in NMFS' 2003 biological opinion (alternative M4). Reclamation proposes alternative M9 will be implemented for all storms<sup>2</sup> when the 30-day storage requirement<sup>3</sup> for water in Lake Matilija has been satisfied. Alternative M4 will only be implemented when the 30-day storage requirement has not been met. For consistency with Reclamation's Report, "alternative 12" is the new name to describe the combined implementation of alternatives M4 and M9. Casitas is expected to implement alternative 12 during periods of long-term drought when the volume of water in Lake Casitas drops below 100,000 AF. When Lake Casitas storage exceeds 100,000 AF, all temporary fish flow reductions that are the basis of the proposed action considered here would be terminated, and the steelhead passage augmentation flows as described in NMFS' 2003 biological opinion would resume. Currently, Lake Casitas is 39.1-percent of capacity with 93,058 AF in storage.

## **Interrelated or Interdependent actions**

The operation of Matilija Dam is interrelated with the proposed action. There is no interdependent action associated with the proposed action.

## **Action Agency's Effects Determination**

Reclamation has determined that implementation of the proposed action may affect, but is not likely to adversely affect, endangered steelhead or designated critical habitat for this species.

## **Consultation History**

In accordance with communication protocols specified in NMFS' 2003 biological opinion, the Robles Biological Committee, which includes NMFS, discussed numerous CDPM alternatives for conserving water and minimizing and avoiding effects to endangered steelhead and critical habitat. On November 18, 2016, three conceptual CDPM alternatives were developed by Casitas and distributed to the Biological Committee. Between December 2016 and February 4, 2017, NMFS collaborated with other members of the Biological Committee and recommended revisions to the nine draft alternatives. On February 15, 2017, NMFS emailed Reclamation a recommended revision to CDPM alternative #4. On March 14, 2017, NMFS sent a letter to Reclamation recommending a combination of drought-protection alternatives #4 and #9 and requested additional information. On January 19, 2018, Reclamation distributed a draft CDPM Report to the Biological Committee. On February 1, 2018, NMFS notified Reclamation that emergency consultations owing to the Thomas

<sup>2</sup> Storms are rainfall events meeting certain criteria or characteristics, as described in NMFS' 2003 Biological Opinion.

<sup>3</sup> State Water Resources License 10133 requires water to be stored for 30 days. When Ventura County Gage #690 maintains a stage height of 1095.32 for 30 days, there is a sufficient amount of water in Lake Matilija to implement two Alternative M9 releases.

Fire would delay NMFS' review of the draft Report. On April 19, 2018, NMFS recommended more revisions to the draft Report, and once again requested the additional information that NMFS originally requested in the letter of March 14, 2017. NMFS received the requested information from Reclamation on May 9, 2018, and provided Reclamation with additional comments on the draft Report on June 21, 2018. On August 31, 2018, Reclamation distributed the draft Report and asked for comments. On October 4, 2018, NMFS provided Reclamation with comments on the draft Report. On January 29, 2019, Reclamation initiated informal consultation with NMFS for the proposed CDPM to modify Robles Facility operation and fish flows.

### **Effects of the Action**

Under the ESA, "effects of the action" means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is not likely to adversely affect listed species or critical habitat is that all of the effects of the action are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or critical habitat. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur.

The effects of the proposed reservoir-based alternative M9 operation on steelhead are expected to be insignificant. The diversion of 234 AF of water from Lake Matilija and re-diversion at the Robles Facility approximately 2.2-miles downstream during the falling limb of a storm hydrograph is not expected to cause adverse effects to any steelhead life stage. The timing of the alternative M9 water release from Matilija Dam is expected to coincide with naturally elevated river discharge in the Ventura River Watershed<sup>4</sup>. For this reason, the increased streamflow (ranging from 20 – 50 cfs) above background during a storm event is not expected to hinder or displace steelhead migrants. Juvenile steelhead and steelhead nests in this portion of the mainstem Ventura River will likely be unaffected by the proposed action because river discharge is anticipated to be already elevated when the CDPM is implemented.

The effects of the proposed alternative M4 Facility operation on steelhead are expected to be insignificant. The duration of the 10-day steelhead flow augmentation event analyzed in NMFS 2003 remains unchanged. Currently and generally, a minimum flow of 50 cfs is maintained continuously for 10 days to facilitate passage of adult steelhead through the lower river downstream of the Facility. Under the proposed action, a minimum flow of 50-cfs will be maintained for fish passage for the first 9-days of the flow-augmentation period, and 40-cfs will be released on day ten. All flow-augmentation events will retain the 2-day ramp down to 30-cfs, and downstream flow releases between storm events will be maintained at 30 cfs provided incoming flows at the diversion exceed 30 cfs in accordance with the 2003 biological opinion. Depending on the size of the storm, alternative M4 proposes to reduce the average flow magnitude about 11% for the first 1 – 4 days of the augmentation event. However, adult steelhead in the action area are anticipated to already be experiencing naturally elevated river discharge before the M4 alternative is implemented, presuming

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<sup>4</sup> Storm events during the months of January through June are qualifying events if the resulting peak discharge rate (a) exceeds 149 cfs (measured at Robles), and (b) results in at least double the flow of any of the three days preceding the storm peak. Following a storm peak, an alternative M9 release of water from Matilija Dam will begin on the first day flow entering Matilija Lake drops below or equal to 250-cfs.

river discharge exceeds the capacity of the Robles-Casitas Canal<sup>5</sup> and spills into the Ventura River. The flow-recession pattern of the alternative M4 was designed to intentionally mimic the flow-augmentation described in NMFS 2003, which provides for a smooth recession. Hence, it is reasonable to conclude that any sharp changes to the smooth, natural recession rate of river flow would be avoided and prevent any changes to upstream or downstream migratory behavior. Effects to emigrating steelhead kelts are expected to be discountable owing to the fact that the duration of the flow augmentation will remain unchanged from NMFS 2003, thus providing unobstructed access to the ocean.

The combined effects of alternative 12 operations on steelhead designated critical habitat are expected to be insignificant and discountable because the proposed action is not expected to result in any change to rearing habitat or the migratory corridor downstream of the Facility. Critical passage areas for steelhead (i.e., shallow riffles where low flow first present passage problems) in the lower Ventura River were analyzed by Casitas' consultants during December 1999<sup>6</sup>; the minimum flow providing sufficient depth for upstream adult steelhead migration was estimated at approximately 50-cfs. Alternative 12 downstream flow releases are expected to ensure that the volume of water released is of sufficient duration and depth for migrating steelhead in the lower Ventura River. The between storm flow augmentation flows are proposed to remain at 30-cfs as recommended in NMFS 2003. NMFS anticipates that the 30-cfs between-storm flow intended to facilitate smolt emigration will likely maintain current instream physical or biological features (i.e., depth, cover, and available habitat area) important to rearing and spawning steelhead.

The operation of Matilija Dam upstream of the Facility to conduct large water releases that are greater than the inflow into the reservoir is interrelated with the proposed action. Matilija Dam operates to release the same amount of inflow. Under the proposed action, Reclamation proposes to conduct Matilija Dam releases in synchrony with naturally occurring storm events in the Ventura River to, in part, avoid adverse effects on endangered steelhead. Because releases from Matilija Dam are allowing Casitas to maintain the 10-day steelhead augmentation flows from the Facility as described in NMFS 2003, this interrelated activity is having an entirely beneficial effect on steelhead and their designated critical habitat.

## **Conclusion**

Based on this analysis of currently available information, NMFS concurs with Reclamation that the proposed action is not likely to adversely affect endangered steelhead or designated critical habitat for this species within the action area of the Ventura River.

## **Reinitiation of Consultation**

Reinitiation of consultation is required and shall be requested by Reclamation or by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (2) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter; or if (3) a new species is listed or critical habitat

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<sup>5</sup> The Robles-Casitas Canal has a maximum diversion capacity of 500-cfs.

<sup>6</sup> ENTRIX, Inc. 1999. Evaluation of natural passage barriers on the Ventura River downstream of the Robles Diversion. Prepared for Borcalli and Associates. December 2, 1999.

designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA portion of this consultation.

Please contact Rick Bush at (562) 980-3562 or via email at Rick.Bush@noaa.gov if you have a question concerning this letter or if you would like additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony P. Spina". The signature is fluid and cursive, with the first name being the most prominent.

Anthony P. Spina  
Chief, Southern California Branch  
California Coastal Office

cc: Mary Larson, California Department of Fish and Game  
Roger Root, U.S. Fish and Wildlife Service  
James Montesi, NMFS  
Administrative file#: 151422SWR2002PR6168